

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SERIES PC OF HCI-CERREBUS PCNY OWNER LP,
HCI-CERREBUS PCNYPC TRS LLC and
HCI-CERREBUS PCNY WH TRS LLC,

Plaintiffs,

21-cv-8374 (PKC)

-against-

ORDER

DIAMOND RESORTS INTERNATIONAL
MARKETING, INC.,

Defendant.

-----X

CASTEL, U.S.D.J.:

The limited subject matter jurisdiction of a district court is best addressed at the outset of a case. It falls upon the court to raise issues of subject matter jurisdiction sua sponte.

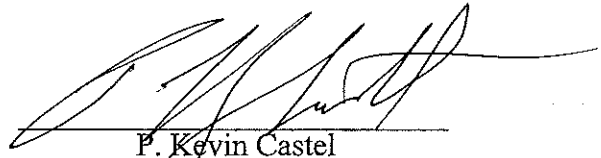
Defendant has removed this action from state court, invoking subject matter jurisdiction by reason of diversity of citizenship, 28 U.S.C. § 1332. The underlying state complaint reveals that plaintiff Series PC of HCI-Cerrebus PCNY Owner LP, is a limited partnership and plaintiffs HCI-Cerrebus PCNYPC TRS LLC and HCI-Cerrebus PCNY WH TRS LLC, are limited liability companies.

In the case of a limited partnership ("LP") and a limited liability company ("LLC") diversity of citizenship is determined by the citizenship of natural persons who are members of the LP and LLC and the place of incorporation and principal place of business of any corporate entities who are members of the LP and LLC. See Handelsman v. Bedford Village Associates Ltd. Partnership, 213 F.3d 48, 51-52 (2d Cir. 2000)(citing Cosgrove v. Bartolotta, 150 F.3d 729, 731 (7th Cir.1998)); Strother v. Harte, 171 F.Supp. 2d 203, 205 (S.D.N.Y. 2001). Rule 8(a), Fed. R. Civ. P. All must be diverse from defendant's citizenship.

By October 19, 2021, defendant may serve a single interrogatory directed to each plaintiff seeking the information required to address the issue outlined in the preceding

paragraph; each plaintiff shall serve its response to the interrogatory within seven days. By November 5, 2021, the defendant shall amend its removal petition to allege the citizenship of all members of the LP and LLC. If, by the foregoing date, the defendant is unable to amend to truthfully allege complete diversity of citizenship, then the action will be remanded to state court for lack of subject matter jurisdiction without further notice to any party.

SO ORDERED.



P. Kevin Castel
United States District Judge

New York, New York
October 12, 2021